

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

IN RE MUTUAL FUNDS INVESTMENT
LITIGATION

This Document Relates To
RS Funds Sub-Track

MDL No. 1586
Case No. 04-md-15863
(The Honorable J. Frederick Motz)

RS Case No. 04-cv-3798-JFM

**MEMORANDUM IN SUPPORT OF RS DEFENDANTS' MOTION TO FILE UNDER SEAL:
(1) MEMORANDUM IN SUPPORT OF RS ADVISERS' MOTION FOR SUMMARY
JUDGMENT; (2) MEMORANDUM IN SUPPORT OF RS INDIVIDUALS' MOTION FOR
SUMMARY JUDGMENT; (3) MEMORANDUM IN SUPPORT OF RS DEFENDANTS'
MOTION TO EXCLUDE TESTIMONY OF MARC VELLRATH; (4) DECLARATION OF
RICHARD GALLAGHER IN SUPPORT OF MOTIONS; (5) DECLARATION OF PROFESSOR
ALLEN FARRELL IN SUPPORT OF MOTIONS; AND (6) DECLARATION OF DANIEL M.
GARRETT IN SUPPORT OF MOTIONS**

Pursuant to L. R. 105.11, defendants RS Investment Management, L.P., RS Investment Management, Inc., RS Investment Management Co., LLC, George Randall Hecht, Steven M. Cohen, James L. Callinan, Peter Keith, and Michael G. McCaffery (collectively, the "RS Defendants") seek to file the following six submissions under seal:

- (1) Memorandum in Support of RS Advisers' Motion for Summary Judgment;
- (2) Memorandum in Support of RS Individuals' Motion for Summary Judgment;
- (3) Memorandum in Support of RS Defendants' Motion to Exclude Testimony of Marc Vellrath;
- (4) Declaration of Richard Gallagher in support of the three motions listed above;
- (5) Declaration of Professor Allen Farrell in support of the three motions listed above; and
- (6) Declaration of Daniel M. Garrett in support of the three motions listed above.

Such filing under seal is necessary because the documents contain discovery material that the parties have designated "Highly Confidential" or "Confidential" pursuant to the terms of the Omnibus Order Regarding Confidentiality of Discovery Material ("Omnibus Order") in this case. The RS Defendants have endeavored to limit the scope of their sealed submissions to only these six. The remainder of the RS Defendants' filings in connection with summary judgment and related motions are unsealed.

Under the terms of the Omnibus Order, it is attendant upon the RS Defendants to file these submissions under seal. These documents contain sensitive personal and business information that would not generally be disclosed to the public. Sealing this information is therefore justified and no alternative would provide the RS Defendants with sufficient protection. *See, e.g., Stratagene v. Invitrogen Corp.*, 206 F.R.D. 121, 122 (D. Md. 2002) (granting motion to seal where exhibit contained "potentially sensitive information"); *Padco Advisors, Inc. v. Omdahl*, 179 F. Supp. 2d 600, 614-615 (D.

Md. 2002) (granting motion to seal because “the exhibits contain valuable trade secrets”); *McCafferty’s, Inc. v. Bank of Glen Burnie*, No. 96-3656, 1998 U.S. Dist. LEXIS 12870, at *2-3 (D. Md. June 29, 1998) (granting motion to seal document “containing information that either the party issuing the subpoena or the party receiving the subpoena would consider confidential information”).

For the foregoing reasons, the RS Defendants respectfully request that the Court grant their Motion to Seal.

Dated: July 2, 2008

Respectfully submitted,

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